

ANTITRUST ISSUES AND SWEDISH ICE HOCKEY

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Background

National Hockey League (NHL) has undoubtedly a great influence on the Swedish ice hockey in general with regard to both its normative and ideological characteristics of its economic and cultural expression.² During the current lockout in the NHL, the Swedish Hockey League (SHL), in order to strengthen their own long-term product and its organizational and competition, banned its members (the twelve clubs in Elitserien) to sign short-term contracts with its NHL players.

The Swedish Competition Authority (KKV) saw, in September 2012, compelled to try SHL's decision and requested the opinion of the SHL.³ KKV believes, in its decision, that a total ban on short-term contracts is not a reasonable measure to ensure a stable and functional system in the Elitserien. SHL appeal to the Swedish Market Court, while Modo and Frölunda acquire the locked-out NHL players, while other clubs stands loyal to SHL's decision. In its decision the Market Court rules, regardless of sport internal control, that the rule not to allow short-term contract (which has existed since the season 2006/2007) is reasonable and intended to "safeguard contest the fairness and proper conduct." According to the Market Court SHL's rule serves the aim and must for that reason be considered legitimate.⁴ The basic question which this project is based on is whether it is possible to discuss and problematize the Swedish competition law and its design (its rationality and logic) in relation to the Swedish elite sport, which is fundamentally and tradition based on "utility maximization", and not on "profit maximization". The above-mentioned problems and the purpose of the present study should be strategically and analytically discussed in relation to the American and European sports model and to the principle of "profit maximization" and "utility maximization".

Purpose

The purpose of this study is to provide a competition law and sport science-based description and understanding of the relationship ice hockey and competition law, and its importance for a deeper understanding of the relationship between the commercial (Entertainment) sports, market and law.

As the study is based on a Scandinavian sport context, with increasing commercialization, the aim is also to discuss and question whether the legal regulation in this area and specifically competition law affects sport logics and its structures.

Method

The method will be based on discourse analysis and on document analysis and secondary literature in the field. Document analysis and secondary literature will be related to sports science, legal and economic literature. The sport science literature will include focus on researching sporting logic, while the legal literature will focus on research on the need for commercial predictability and competition (with relevant case law), and its relationship to sport, while the economic literature will focus on research on the principle of profit and utility maximization. The method is to relate this type of secondary literature to the current problem and its purpose. Discourse analysis focuses on the debate surrounding SHL, the KKV and the Swedish Market Court.

Theory

The study is interdisciplinary and based on: a) sports science approach to understanding the sport conditions, logic, shapes and development, b) the right scientific perspective, c) the right sociological analysis of sport's legal culture, and a system theoretical perspective on the relation sports, marketing / media and law. A sports science perspective, which can connect to the system-theoretical point, the discussion of "uncertainty of outcome" in sport / sport and its relation to the market, and especially the legal system, the need for predictability. This starting point might present a comparative discussion and analysis of the sporting, economic and legal environment and the impact of the European and the American sports model.

References

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